

EXHIBIT A

REIMBURSEMENT AGREEMENT BETWEEN THE FORT ORD REUSE AUTHORITY AND THE CITY OF MARINA FOR STREET IMPROVEMENTS TO CRESCENT STREET EXTENSION, ABRAMS DRIVE, EIGHTH STREET AND SALINAS AVENUE

THIS AGREEMENT is made and signed on this 3rd day of May 2007, by and between the CITY OF MARINA, hereinafter called "City" and ~~the~~ FORT ORD REUSE AUTHORITY, hereinafter called "FORA".

RECITALS

A. In June 1997, the FORA Board adopted a Final Environmental Impact Report ("FEIR") and a Fort Ord Base Reuse Plan ("Plan"). The Plan defines a series of project obligations of the Plan as the Public Facilities Implementation Plan ("PFIP"). The PFIP serves as the baseline Capital Improvement Program ("CIP") for the Plan. The FORA Board annually revisits, reviews and considers a modified CIP that includes reprogramming of projects or other modifications deemed appropriate and necessary, such as the inclusion of the Transportation Agency for Monterey County's ("TAMC") most recent study that reallocated transportation mitigation funds. The FORA Board endorsed that study, entitled "FORA Fee Reallocation Study," on April 8, 2005.

B. In 1999 the FORA Board adopted Resolution 99-1 to establish a base-wide special tax levy for the funding of FORA obligations under the BRP. In June 2002 the FORA Board approved the formation of the Community Facilities District ("CFD") and adopted Ordinance #02-01 to clarify and define the funding of FORA obligations under the BRP. In November 2005 the FORA Board amended Ordinance #02-01 through the adoption of Ordinance #05-01 amending the special taxes levy. In February 2007 the FORA Board adopted Resolution #07-05 to modify Resolution 99-1. The portion of the special taxes collected under these FORA ordinances that are applicable to mitigating infrastructure are determined each year and adopted by the FORA Board in the adoption of the FORA CIP.

C. The "FORA Fee Reallocation Study" programmed \$1,018,004 in FORA fees for the preliminary engineering, design, environmental, construction, and construction management of the "Crescent Street extension to Abrams Drive" project. The \$1,018,004 in funds is currently programmed in FY 2007-2008 through FY 2009-2010 inclusive, with project completion programmed in FY 2009-2010.

D. The "FORA Fee Reallocation Study" programmed \$852,578 in FORA fees for the preliminary engineering, design, environmental, construction, and construction management of the "Abrams Drive 2 lane arterial from 2nd Avenue easterly to Crescent Street extension" project. The \$852,578 in funds is currently programmed in FY 2007-2008 and FY 2008-2009 with project completion programmed in FY 2008-2009.

E. The "FORA Fee Reallocation Study" programmed \$4,871,433 in FORA fees for the preliminary engineering, design, environmental, construction, and construction management of the "8th Street upgrading and construction of a new 2 lane arterial from 2nd Avenue to Intergarrison Road" project, including the intersection with Intergarrison Road. The \$4,871,433

in funds is currently programmed in FY 2007-2008 and FY 2008-2009 with project completion programmed in FY 2008-2009.

F. The "FORA Fee Reallocation Study" programmed \$3,410,313 in FORA fees for the preliminary engineering, design, environmental, construction, and construction management of the "Salinas Avenue construction of a new 2 lane arterial from Reservation Road to Abrams Drive" project. The \$3,410,313 in funds is currently programmed in FY 2007-2008 and FY 2008-2009 with completion programmed in 2008-2009.

G. Together, the individual projects described in C., D., E. and F. above are referred to as "the Projects." FORA's funding obligation to "the Projects" shall not exceed \$10,152,328, (Attachment 1) in total less FORA's engineering and accounting fee of 0.1%.

H. On June 9, 2006, the FORA Board approved the FY 2006-2007 through FY 2021-2022 CIP, which programmed the Project components in the fiscal years noted in recitals C., D. E. and F. above. This CIP further programmed the receipt, by FORA, of CFD "Maximum Special Tax Rates" in fiscal years to support the performance of the CIP as adopted.

I. The City compiles and maintains a Capital Improvement Program ("City CIP") including construction and design of streets within the City. Under this City CIP, \$4,700,000 is programmed to fund the construction of 2nd Avenue from Patton Parkway to the northerly limits of the University Village development project. This project is referred to as the "completion project".

J. The purpose of this Agreement is to establish the extent and manner in which City will be entitled to reimbursement by FORA for the FORA CIP programmed portion of the Project costs and the timing of the reimbursement by FORA.

NOW, THEREFORE, IT IS MUTUALLY AGREED BETWEEN THE PARTIES HERETO AS FOLLOWS:

1. Design, Consulting, Construction and Initial Financing of Project.

1.1 Lead Agency. The City shall, in compliance with the City's request of April 27, 2005, replace FORA as lead agency and shall serve as lead agency for the Projects, and shall continue as lead agency for the "completion project":

1.2 Engineering, Design, Environmental, Construction, Construction Management, and Other Services. The City shall retain necessary services and prepare all studies and documents required for environmental clearance for the Projects. The City shall also provide all required engineering, design, environmental, and other services for environmental clearance, permitting, design, construction, bidding, and construction management of the Projects. The City shall prepare the design documents in full conformance with the design requirements for the Projects approved by the City and in full conformance with the provisions of the applicable state and local codes. The Projects' design, engineering and construction must also meet the minimum carrying capacity and design requirements noted in the "FORA Fee Reallocation Study" Scenario C. The City shall commence preliminary engineering, design, environmental, and other services in FY 2006/2007.

1.3 Funding of City Provided Pre-Construction Services; Dependant upon market conditions and the issuance of building permits within the developable lands of the former Fort Ord, FORA will honor and pay invoices for services rendered by City and/or its consultants in providing the services enumerated in paragraph 1.2 above. The maximum amount payable to the project is as stated in paragraph 3 Amount of Reimbursement below. No payment will be made prior to the first day of the fiscal year in which the work is programmed to be performed. The FORA fiscal year is July 1 through June 30. The amounts payable, as indicated herein, will be adjusted annually, following approval of the FORA Board, by the Construction Cost Index as published each January by the Engineering News Record (ENR) commencing with the first such publication following the effective date of this agreement. FORA shall have sole discretion as to the source of funds for use in satisfying its obligation under this agreement.

1.3.1 8th Street. Pre-construction services are to begin and be completed in FY 2007-2008. The amount payable for these services shall not exceed 20% of the programmed project cost (\$974,287 of \$4,871,433 in FY 2006-2007 CIP).

1.4 Project Reprogramming. FORA shall not reprogram the Project to a later period unless development is delayed by market conditions as noted in Article 2 below.

2. Reimbursement to City. FORA's obligation to reimburse the City is contingent upon the development market and FORA's corresponding collection of development fees from former Fort Ord development projects. Development fees collected under the FORA CFD are the only source of funds obligated for reimbursement under this Agreement. FORA shall reimburse the City for costs incurred from initiation through Project completion and in accord with the amounts of reimbursement not to exceed the aggregate total for the projects as outlined in the CIP. The City may advance the construction of the "completion project" to coincide with construction of the projects.
3. Amount of Reimbursement. FORA, under this agreement with the City, shall reimburse the City for an amount not to exceed FORA's share of the total project cost, as presented in the FORA CIP, as the CIP may be updated from year to year, less 0.1% to be retained by FORA to fund its cost of engineering and accounting. The total reimbursement payable by FORA to City shall not exceed FORA's total combined obligations to the projects and shall include design and construction of the 2nd Avenue "completion project" for funding within this stated limitation.

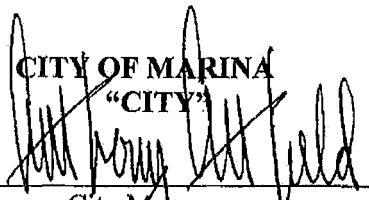
FORA may from time to time, prior or subsequent to this agreement, enter other funding agreements, in conformance with its CIP, for the purpose of mitigating traffic impacts resulting from the redevelopment and reuse of the former Fort Ord. The timing of reimbursements to the City shall honor such other agreements and the total reimbursement amount payable to the City shall be reduced by FORA's reimbursements or other compensation paid to or allowed developers constructing any portions of the Projects as herein defined.

4. Invoices to FORA. The City shall submit invoices to FORA on a no more frequent than monthly interval, at a mutually agreeable date. The final invoice shall include a copy of a Notice of Completion filed with the City Recorder's office for the project.

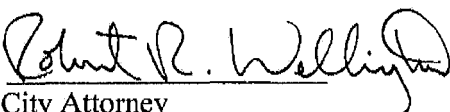
5. Timing of Reimbursement. FORA shall commence reimbursement payments to the City when development fees programmed to fund the Projects become available with the first payment due in a month when projected development fees are collected by FORA. Other reimbursement agreements of record shall be paid concurrent to this Agreement.
6. Audit. The City agrees that the City's books and expenditures related to the Projects shall be subject to audit by FORA.
7. Amendment by Written Recorded Instrument. This Agreement may be amended or modified in whole or in part, only by a written and recorded instrument executed by both of the parties.
8. Indemnity and Hold Harmless. City agrees to indemnify, defend and hold FORA harmless from and against any loss, cost claim or damage directly related to City's actions or inactions under this Agreement.
9. Governing Law. This Agreement shall be governed by and interpreted by and in accordance with the laws of the State of California.
10. Entire Agreement. This Agreement along with any exhibits and attachments hereto, constitutes the entire agreement between the parties hereto concerning the subject matter hereof.
11. Interpretation. It is agreed and understood by the parties hereto that this Agreement has been arrived at through negotiation and that neither party is to be deemed the party which prepared this Agreement within the meaning of Civil Code Section 1654.
12. Attorney's Fees. If a proceeding is brought to enforce any part of this Agreement, the prevailing party shall be entitled to recover as an element of costs of suit, and not as damages, a reasonable attorneys' fee to be fixed by the arbitrator or Court. The "prevailing party" shall be the party entitled to recover costs of suit, whether or not the suit proceeds to arbitrator's award or judgment. A party not entitled to recover costs shall not recover attorneys' fees. No sum for attorneys' fees shall be counted in calculating the amount of an award or judgment for purposes of determining whether a party is entitled to recover costs or attorneys' fees.

IN WITNESS WHEREOF, the parties hereto have executed this agreement on the day and year set out opposite their respective signatures.


Date: MAY 3, 2007

By: 
 CITY OF MARINA
 "CITY"
 City Manager
 Anthony Altfeld

APPROVED AS TO FORM:

By: 
 City Attorney
 Rob Wellington

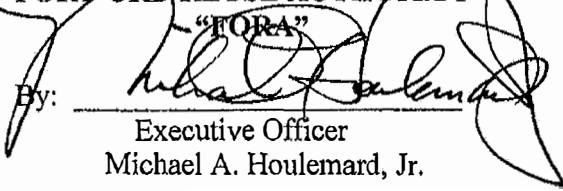
Pursuant to Resolution No. 2007-65
ATTEST:

By: 
 Joy P. Junsay, City Clerk
 5/4/07

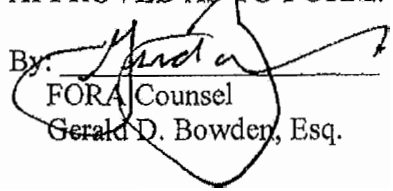
FORT ORD REUSE AUTHORITY

"FORA"

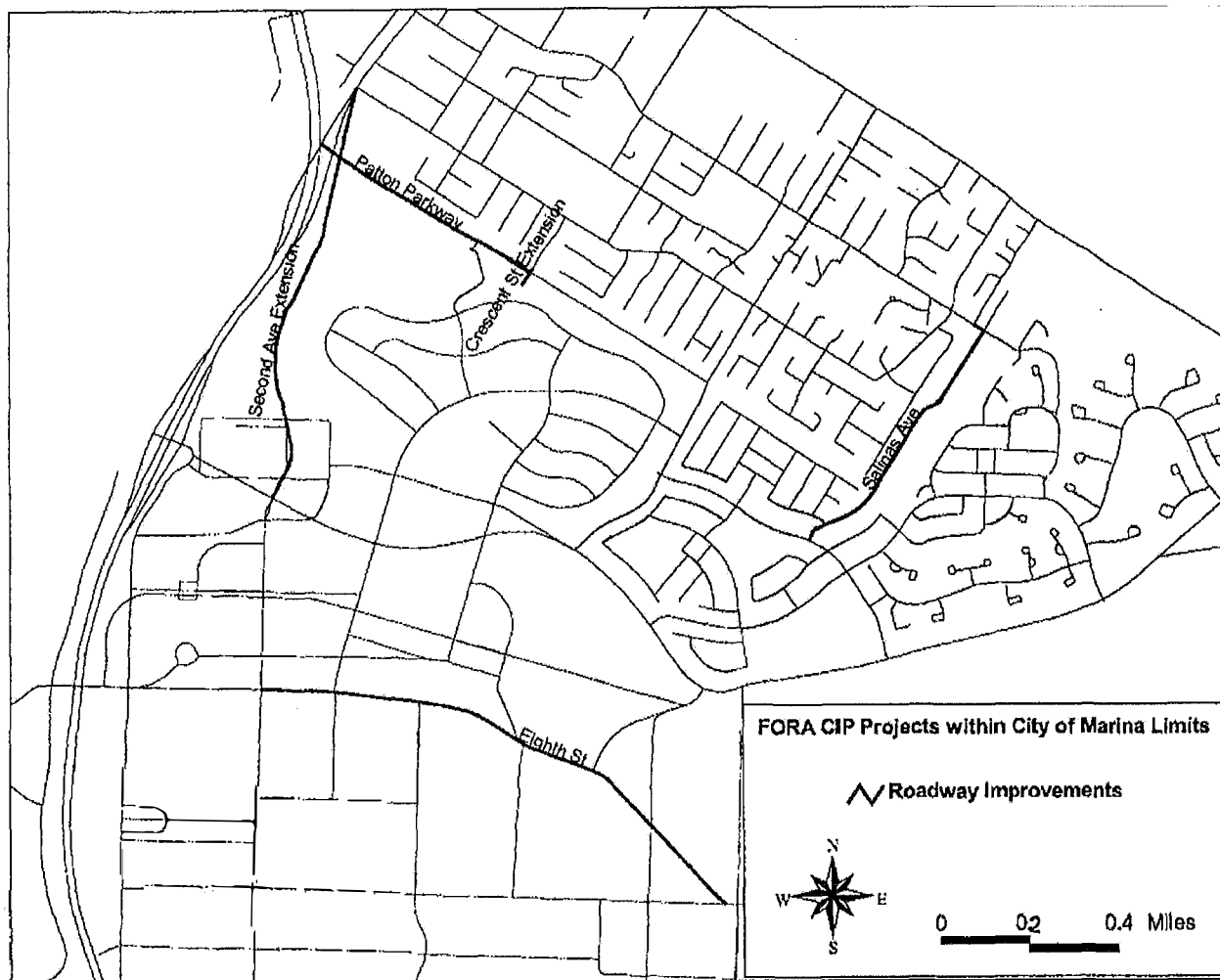
Date: May 30 07

By: 
Executive Officer
Michael A. Houlemard, Jr.

APPROVED AS TO FORM:

By: 
FORA Counsel
Gerald D. Bowden, Esq.

ATTACHMENT 1



RESOLUTION NO. 2007-65

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARINA
APPROVING REIMBURSEMENT AGREEMENT BETWEEN FORT ORD REUSE
AUTHORITY (FORA) AND CITY OF MARINA FOR STREET IMPROVEMENTS TO
CRESCENT STREET EXTENSION, ABRAMS DRIVE (PATTON PARKWAY), EIGHTH
STREET AND SALINAS AVENUE AND AUTHORIZING THE CITY MANAGER TO
EXECUTE THE REIMBURSEMENT AGREEMENT SUBJECT TO FINAL REVIEW AND
APPROVAL BY THE CITY ATTORNEY

WHEREAS, the City has determined that it is in their best interest to be the lead agency for design and construction for FORA CIP funded projects within the City of Marina; and

WHEREAS, the purpose of the proposed Reimburse Agreement is to establish the extent and manner in which City will be entitled to reimbursement by FORA for the CIP program that includes Crescent Street extension, Abrams Drive (Patton Parkway), Eighth Street and Salinas Avenue costs; and the timing of the reimbursement to the City by FOR A; and

WHEREAS, the agreement will allow the City to design and build all four (4) projects so long as connectivity is maintained and costs do not exceed the aggregate total of funds allocated; and

WHEREAS, The reimbursements shall be made each month as the costs are incurred dependent on FORA receiving the funds and the fiscal year the project is programmed in its CIP; and

WHEREAS, funding for costs incurred by the City to construct the approved projects will be provided by reimbursement from FORA.

NOW, THEREFORE NOW BE IT RESOLVED that the Marina City Council does hereby;

1. Approve a reimbursement agreement between the Fort Ord Reuse Authority (FORA) and the City of Marina for street improvements to Crescent Street extension, Abrams Drive (Patton Parkway), Eighth Street and Salinas Avenue, and;
2. Authorize the City Manager to execute the reimbursement agreement subject to final review and approval by the City Attorney.

PASSED AND ADOPTED, at a regular meeting of the City Council of the City of Marina, duly held on April 3, 2007, by the following vote:

AYES: Council Members: Gray, McCall, Morrison, Wilmot and Mettee-McCutchon


NOES: Council Members: None

ABSENT: Council Members: None

ABSTAIN: Council Members: None


Ila Mettee-McCutchon, Mayor

ATTEST:


Joy P. Junsay, City Clerk